

## **Workforce Services Policy – Senior Community Service Employment Program (SCSEP)**

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### **Executive Summary:**

#### **1. What is general the purpose of this policy?**

The purpose of this policy is to outline the SCSEP program. This policy explains in detail different aspects of the program such as: Participants Wages, Duration limits, Grievances, Termination reason etc. The policy explains the different aspects of the SCSEP program, what they mean and how they are administered to program participants.

#### **2. What are the notable guidelines conveyed within this policy?**

This policy addresses the following items:

- SCSEP participant wage
- SCSEP durational limit
- Approved participant break
- Host agency closures due to natural disasters, pandemics
- SCSEP participant termination
- SCSEP grievance and complaint procedures

#### **3. Have there been any changes since the last policy? If so, describe the modification(s).**

This policy is a consolidation of six (6) formerly separated policies. Otherwise, no changes have been made during the consolidation process.

#### **4. What must the Local Workforce Development Board do to meet the requirements of this policy?**

The Local Board must oversee that participants do not surpass the durational limit for participation within the SCSEP program. Additionally, the Local Board must be aware of the grievance and complaint procedures to adjudicate disagreements that arise between participants and sub-recipient contractors.

#### **5. How does this policy affect the workforce system?**

SCSEP is a work-training program targeting low-income, unemployed, older individuals. The program promotes community-service activities strengthening the participant's skills to move that participant from subsidized training to unsubsidized employment.



STATE OF TENNESSEE  
**State Workforce Development Board**  
220 French Landing Drive, 4A  
Nashville, TN 37243-1002  
(615) 741-0409

**Workforce Services Policy – Senior Community Service Employment Program (SCSEP)**

**Effective Date:** March 26, 2021

**Duration:** Automatic Annual Renewal

**Purpose:**

The purpose of this policy is to outline the SCSEP program. This policy explains in detail different aspects of the program such as: Participants Wages, Duration limits, Grievances, Termination reason etc. The policy explains the different aspects of the SCSEP program, what they mean and how they are administered to program participants.

**Scope:**

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TDOE); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); **Title I** – Adult, Dislocated Worker, and Youth Programs, **Title II** – Adult Education and Family Literacy Act Program(AE); **Title III** – Wagner-Peyser Act Program (WP); **Title IV** – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (Operator); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners).

**I. Participant Wage Policy**

SCSEP is a work-training program targeting low-income, unemployed, older individuals. The program promotes community-service activities strengthening the participant’s skills to move that participant from subsidized training to unsubsidized employment.

All grantees and subgrantees must pay the minimum-wage rate to SCSEP participants for their time spent in orientation, training and on community-service assignments. Since Tennessee does not have a minimum-wage requirement, for the purpose of this program all SCSEP participants will be paid the Federal minimum wage while they actively participate in SCSEP host agency training. Such activities include those offered by American Job Centers, in an effort to help SCSEP participants enter unsubsidized employment at wages comparable to other employees in the same positions. SCSEP is a training program and therefore participants are not considered employees of the subgrantee or

their host agency while participating in the program.

The following are unallowable costs under SCSEP:

- Compensation or payment for unused benefits such as sick leave or holidays
- Payment into a retirement system
- Cost of pension benefits

## **II. Durational Limit:**

Subgrantees must inform SCSEP “eligible” participants during their enrollment in the program, of the maximum 48-month time limit for participating in the program. This information is vital to participants as they plan their livelihoods for the next phase, employment in unsubsidized jobs.

Participants also need to be made aware that there will not be any extension beyond the maximum 48 months. Subgrantees must develop a form that the participant will sign which states that he/she is aware of this durational limit that is mentioned in the SCSEP Participant Handbook. This signed form must be kept in the participant’s file.

### **A. Transition Planning:**

Sub-grantees are required to submit a 90-day and 30-day notice to participants that are about to reach their durational limit. Exit transition plans must be in place for each participant affected by a durational limit and will be implemented within 90-days of the participants exit to ensure the best possible outcome for each participant. Sub-grantees should identify other relevant community partners and should collaborate with SCSEP partners, including One-Stop American Job Centers (AJCs), to ensure that during the transition process participants have opportunities to use SCSEP partner services.

Sub-grantees should invite community partners and American Job Center partners to meetings to discuss services provided and eligibility requirements and to also introduce participants to the partners prior to exiting the program.

## **III. Participant Approved Break**

Approved leave without pay of up to 30-days will be granted to a participant. A participant may need a leave due to an unexpected illness or surgery; attend to a personal matter, care for a family member, or waiting for a new Host Agency assignment. A leave of absence cannot be granted to a participant who wants “time off” from training for no reason. An approved break in schedule is to be documented in the participants file case notes and the USDOL SPARQ database. When the participant requests a leave of absence because of an illness or surgery, a letter must be obtained from a physician indicating the length of time off for recovery and an anticipated date returning to work. The letter must include restrictions or instructions for the participant. For other request, document the reason in the case notes and the USDOL SPARQ database. If the request is health related, the participant must be re-evaluated periodically to determine whether the break will exceed 30-days. In the event the participant cannot return to their assignment after 30 days, a termination letter will be sent to the participant exiting them from the program. Participants that exit the program for health-related reasons can re-enroll in the program after they have recovered and provided a release from their physician.

## **IV. Host Agency Closure Due to Natural Disaster, Pandemic**

**A. Immediate Relief through Paid Sick Leave:**

During a crisis of a pandemic or natural disaster, this policy is effective from the start of the crisis till the local government officials declare the end of the crisis. Active State of Tennessee SCSEP participants who meet any of the criteria below are eligible to take up to a total of eighty (80) hours of paid sick leave. Leave will be paid at their current hourly stipend rate for no more than twenty (20) hours a week, which equals the average hours each participant trains under normal circumstances. These eighty (80) hours are equivalent of two (2) pay periods.

**B. Emergency Paid Sick Leave:**

- Emergency Paid Sick Leave (EPSL) may serve as a means of limiting risks to SCSEP participants' health and safety while minimizing disruption in the payment of participant wages and benefits.
- The participant's weekly hours during EPSL shall be equal to their weekly hours at the time the EPSL policy was authorized by the Tennessee Department of Labor and Workforce Development (TDLWD).
- Use of EPSL will count towards participants' Individual Durational Limit. Participants receiving wages for SCSEP EPSL will not be placed on an approved break in service.
- Participants may elect to be placed on approved break in service to stop their four-year clock, in lieu of receiving EPSL.
- A participant cannot be on an approved break and receive EPSL payments at the same time.

**C. Criteria to Qualify for Paid Sick Leave:**

In order to qualify to receive paid sick leave under the SCSEP Program, any one (1) of these criteria must be satisfied:

- A positive test result related to a pandemic virus
- A natural disaster that affects the region in which the SCSEP participant resides
- Documented requirement to quarantine (e.g. doctor's certification or other proof of that requirement for that individual); or
- Host agency closure with no appropriate reassignment available that meets IEP criteria.

Absent any of the three criteria above, an individual can also request sick leave with when the public officials (such as a governor or mayor) in that region declare an emergency by issuing executive orders to carry out any of the following actions:

- Closure of schools and post-secondary institutions;
- Restriction of public gatherings;
- Cancellation of sports, artistic gatherings, plays, or other public social activities;
- Restriction of local travel on buses or other or private transportation (e.g. Uber, Lyft, etc.); or
- Other reasons as approved on a case-by-case basis.

**D. Record Participant Sick Leave Hours:**

Subgrantee staff that administer the SESEP Program must ensure that documentation is received and maintained to reflect accrual of participant hours toward the participant's paid sick leave. Records must demonstrate the number of hours the participant has accrued and provide sufficient information to inform the participant of remaining hours that can be used toward this benefit.

Participant time sheets can be by be submitted by the following methods:

- Email
- Fax
- Certified mail
- Photos sent via smart phone

All documentation must be sent to the SCSEP coordinator that oversees their participation in the program. Subrecipient staff should respond to participant submissions to confirm that documentation has been received. Subrecipient staff must maintain these records, but participants should maintain records to mitigate problems that may arise due to lost time sheets.

**i. Participant Signature to Confirm Accuracy:**

The time sheet to document accrued hours must reflect the participant's signature.

**ii. Confirm Accuracy of Recorded Sick Hours:**

Conformation of accuracy regarding accrued hours may be done over the phone. Subrecipient staff should schedule calls to reconcile accrued and scheduled hours on a weekly basis to ensure that compliance with state and local policies. Once the hours have been confirmed, subrecipient staff will sign the form to verify accuracy.

**E. Extension of Paid Sick Leave:**

Upon discretion of the SCSEP Program Manager of Workforce Services, paid sick leave may be extended under the following circumstances:

- Participants exhaust their eighty (80) hour EPSL benefits in the time that the host agency remains closed due to a federal, state or local order of closure; or
- A facility has re-opened, but has then closed by a federal, state, or local order due to an increase of infections. In this case EPSL will resume from the date of closure.

**F. Exhaustion of Benefits:**

**i. Suspension of SCSEP Participation:**

A participant cannot be on an approved break and receive EPSL payments at the same time. A participant may opt for approved break rather than EPSL. In this case, the participants time in the program will halt until circumstances pass and training continues. A participant may chose to resume participation in SCSEP, and collect EPSL, at any time as long as they have not reached their durational limit for participation.

**ii. Exhaustion of SCSEP Participant Duration:**

An individual will no longer be eligible for EPSL or further participation in SCSEP once the duration limit for participation has been reached.

**V. Termination:**

No participant may be terminated except in accordance with Tennessee Department of Labor and Workforce Development's (TDLWDs) SCSEP's Termination Policy. All participants have the right to appeal under TDLWDs SCSEP grievance procedure within 30 days of termination letter. A copy of the grievance procedure will be attached to the termination letter. Terminations and processes are listed below.

**A. Voluntary Termination:**

If a participant decides to voluntarily resign, one week notice should be provided by the participant, and the reason for resigning should be stated. If a participant has obtained an unsubsidized job, the participant should inform and work with his or her SCSEP

Director/Coordinator to gather necessary information for the participant's exit. SCSEP Director/Coordinator may ask the participant to submit copies of acceptable documentation to verify the reason for exiting SCSEP.

**B. Participant's Involuntary Termination:**

This Termination Policy<sup>1</sup> will be followed fairly and equitably when involuntary terminating participants. Participants will not be terminated on account of age; there is no upper-age limit for participation in SCSEP. Except as noted below, in the case of serious violations, participants will receive counseling and an opportunity for correcting action before a formal termination notice is issued. In all cases, participants will receive a 30-day termination letter notifying them of the date of exit and the reason for the termination. Participants will receive both a copy and a verbal explanation of the Involuntary Termination Policy during orientation. There are seven (7) reasons a participant may be involuntarily terminated from the SCSEP. Each subgrantee's Program Director/Coordinator will make terminations in accordance with the involuntarily terminations listed below.

**1. Termination due to knowingly providing false information in the Eligibility Process**

A participant may be terminated for fraudulent actions, such as intentionally providing inaccurate information to qualify for SCSEP. If this occurs, the participant will be placed on "leave without pay" immediately, and a 30-day notification of termination will be sent to the participant.

**2. Incorrectly Determination of a Participant as Eligible**

A participant, through no fault of that participant, will be terminated if found ineligible for participation in SCSEP. This termination may occur either after the enrollment or after the annual recertification. A participant may be enrolled or deemed eligible, for continued enrollment based on an error in determining program eligibility, such as the inaccurate recording and/or calculation of income. When this occurs, the participant will be notified regarding the error and immediately sent a 30-day notification-of -termination letter. The participant will be able to continue participating in the program until the date of exit noted in the letter.

**3. Termination Due to No longer Being Eligible**

Annually, or more frequently if there is a substantial change in the participant's circumstances, each participant is recertified to determine if he or she continues to be eligible for the program. During the recertification, a participant may be determined ineligible, due to a change in eligibility criteria, such as income, family of one due to a change in disability status, employment status, and a number of household members. The participant will be notified and immediately sent a 30-day notification of termination letter. The participant will be able to continue participating in the program until the date of exit noted in the letter.

**4. Termination Due to 48 Month Participation Limitation**

A participant will be terminated when he/she meets the federally mandated 48-month maximum-participation date without the possibility of extension. The participant will be notified by letter 90 and 30 days before exit. Transitional assessment will be provided to all participants who are approaching their four year limit on participations, and who are still not job ready. The transition assessment is intended to help develop a post-SCSEP transition plan by the time the participant completes his or her duration in the program. Participants have an option to decline the transition assessment process. If they decline, project staff must document this decision with detailed case notes.

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<sup>1</sup> Older American Act Amendments of 2006; SCSEP Final Rule

## **5. Termination Due to Becoming Employed During Enrollment**

To qualify for enrollment in SCSEP, a participant must be unemployed; all participants are informed that they may not be employed while participating in the program and that they must inform the program representative immediately upon becoming employed. A participant, who is discovered to be employed, while enrolled without notifying the program of the employment, will be terminated from the program. If this occurs, the participant will be placed on "leave without pay" immediately, and a 30-day notification of termination will be sent to the participant.

## **6. Termination for Cause**

Any participant terminated 'for cause' will receive an immediate written notice stating the reason(s) for termination and a 30-day notice of the pending termination date. Behaviors that may lead to termination for discipline should be documented and included in the project records.

- Income eligibility determined at recertification
- Unwillingness to perform assigned duties without good cause
- Refusal to accept a different community service assignment that is consistent with the Individual Employment Plan (IEP) without good cause
- Frequent tardiness or unauthorized absences, including reporting to the assignment late or not reporting to the assignment and not informing the supervisor. Generally, instances of absence without good cause or without proper notice may warrant termination.
- Falsification of time sheets or other official records (those proving false information must be referred to American Job Center (AJC) or appropriate partner)
- Insubordination, defined as intentionally refusing to carry out the direction or instructions of a host agency or SCSEP staff member, provided there were no extenuating circumstances and the directions or instructions were reasonable
- Non-Compliance with the drug and alcohol-free policy, which prohibits participants from consuming, selling purchasing, manufacturing, distributing, possessing, or using any illegal or non-prescribed drug; from being under the influence of alcohol and/or drugs while performing their host agency assignment or while carrying out objectives required by the IEP
- Using obscene, abusive, harassing or threatening language or behavior
- Theft, meaning illegal taking or withholding of the property of another without permission
- Intentional disclosure of confidential or private information obtained from the host agency, grantee, or local project, for example, informing others of information that is supposed to be kept private or confidential
- Physical violence or intentional destruction of property, for example, being violent and threatening to or carrying out threats that physically harm individuals or property
- Causing and imminent threat to health or safety to self or others. Legal prescribed medications are excluded if they do not affect the participant's ability to perform his /her duties or to protect the safety of the participant others.
- Workplace harassment or discrimination on the basis of sex, race, color, religion, national origin, age, marital status or disability
- Exceeding approved leave without pay by failing to return from an approved break by the required date without due notice or good cause

When a participant's violation of a Tennessee department of Labor and Workforce Development (TDLWD) policy is of a serious nature, immediate action to remove the

participant from the host agency may be required. In this case, the participant will be placed on leave without pay, and a written 30-day notice of termination will be sent to the participant. Examples of circumstances warranting immediate removal from the host agency and "Leave without Pay" include:

- Gross misconduct, such as violating TDLWD's Drug and Alcohol Policy or intentionally endangering the lives of oneself or others
- Violence, including physical or extreme violence at the training site
- Individual Employment Plan terminations

Failure to participate in the IEP process may be cause for corrective action and, as a last resort, termination. Repeated refusal (three instances) to perform specific actions as agreed to in the IEP may result in termination. Prior to an IEP related termination, the participant will be given a chance to correct the offending action. Written notice shall be given to that participant citing a specific incidence in which participant did not fulfill his/her responsibility. The notice must list the specific event, cite the jointly signed agreement provision and provide time for corrective action.

Participants may be terminated for refusing to accept three job offers or referrals appropriately related to his or her IEP without good cause. The participant will be notified and immediately sent a 30-day notification-of-termination letter. The participant will be able to continue participating in the program until the date of exit noted in the letter.

The following is a list of action steps that could be a part of an IEP:

- Job searching and submitting required documentation;
- Attending a job interview;
- Accepting an initial or alternative training assignment;
- Registering at the local AJC for employment
- Improving personal habit or appearances;
- Participating in workshops, training etc.;
- Pursuing A GED; and
- Working on putting support services in place

### **C. Participant Corrective Action and Warning:**

A participant will be given an opportunity to correct his or her behavior or conduct, or his or her failure to comply with IEP requirements except in cases involving serious harm or imminent threat to health, safety, property, etc. At any point, if a participant makes positive efforts or the participant's lack of action is justified, corrective action will be discontinued. The following steps for corrective action will be taken.

- **Step 1: First Formal Warning**

If a participant displays behavior or conduct outlined in the reasons "for cause" terminations or refuses to comply with the IEP requirements, the participant will be given a verbal warning and counseled to correct his or her actions by the Local SCSEP Project Director/Coordinator. Absent extenuating circumstances, the participant will be informed in writing by the Local SCSEP Project Director/Coordinator of the requirement to correct his or her behavior or conduct.

- **Step 2: Second Formal Warning**

When a participant for a second time displays behaviors or conduct outlined in the reasons

“for cause” terminations or refused to comply with the IEP requirements, the Local SCSEP Project Director/Coordinator will meet with the participant and provide a written warning along with providing counseling that he or she has 30 days to correct his or her behavior or conduct. Absent extenuating circumstances, the Local SCSEP Project Director/Coordinator will send the participant a written warning that he or she has 30 days from the date of the letter to correct his or her behavior or conduct. In the case of an IEP violation, the participants may be directed to complete a specific IEP-related task. The written warning will include a statement that failure to make improvements or complete the IEP-related task will result in termination.

- **Step 3: Termination**

When a participant does not improve his or her actions, or for a third time displays behavior or conduct in the reasons “for cause” terminations, a letter will be sent by the Local SCSEP Project Director /Coordinator notifying the participant that he or she will be exited 30 days from the date of the letter.

## **VI. Grievance**

### **A. Background:**

Any Termination<sup>2</sup> must be consistent with administrative guidelines issued by TDLWD’s SCSEP. The termination notice must inform the participant of the grantee’s grievance procedure and the termination notice must be subject to the applicable grievance procedures<sup>3</sup>.

### **B. Procedures:**

All complaints pertaining to the Tennessee Department of Labor and Workforce Development’s (TDLWD) SCSEP will be reviewed and addressed as required. All Participants will be provided a copy of the grievance procedures during orientation. The participant’s termination notice will also inform the participant of the grievance procedure. For resolving grievance procedure complaints arising between the grantee, subgrantees, applicants or participants, follow the steps provided below.

### **C. Instructions:**

- **Step I – Discuss the Issue (Informal)**

Participants should informally discuss, with the sub-grantee project director, the problem or grievance. This may be done either by verbal communication or in writing within five (5) business days of the occurrence of the problem. The project director will work with the participant to provide a solution within ten (10) additional business days. If a resolution is not reached, the participant is informed of his/her right to file a formal complaint.

- **Step II – No resolution (Addressing the formal Grievance Procedure)**

If the participant feels that the informal resolution is not satisfactory, the participant should then contact the subgrantee executive director or the designated representative in writing describing the complaints or issues and naming all persons involved and any pertinent data and/or location. The subgrantee executive director or designated personnel will contact the participant within five (5) business days after receiving the complaint in writing as a formal grievance. After the participant receives this contact, the participant will be given an opportunity to further discuss the problem either by telephone or in person. The executive director or personnel representative may decide to investigate/resolve the grievance within ten (10) business days before providing a written response. The decision will be mailed to the complainant within twenty (20) calendar days after the attempt to resolve the grievance unless

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<sup>2</sup> 20 CFR 641.580

<sup>3</sup> 20 CFR 641.910 and 29 CFR 37.70 to 37. 80

additional time is required under the circumstances. Complainants that are not satisfied with the decision have the right to appeal in writing to the TDLWD office/Title V grantee within five (5) business days after receiving a decision from the executive director or designated representative of executive director.

- **Step III – Appeals**

Complaints that are not resolved at the subgrantee level can be appealed in writing to the TDLWD EEO Officer at 220 French Landing Drive, Nashville, TN 37243. This must be done within thirty (30) days after a decision has been rendered at the local level and is not accepted by the complainant.

**D. Process for Filing an Appeal of the Decision or Lack of (Action):**

The appeal should be concise (if possible, it should not exceed five pages, not including exhibits and attachments). The appeal should also be sent by certified mail (return receipt) to:

Tennessee Department of Labor and Workforce Development  
Attention: SCSEP  
220 French Landing Drive,  
Suite 4B  
Nashville, TN 37243

The appeal request shall state the facts, laws, procedures, etc. that the grievant/ complainant believes to be relevant for review. The appeal must be filed within thirty (30) calendar days of receipt of the decision to act.

The request shall include the grievant/complainant's address where official notices will be mailed. When the process is complete, the grantee will keep the complaint and decision in its files.

The United States Department of Labor and Workforce Development will not review final determinations made by the TDLWD except to determine whether the grievance procedure was followed. If, however, the complaint alleges violations of federal law other than discrimination and the violations are not resolved within 60 days of the TDLWD's receiving it, the complainant may file a complaint with the Chief, Division of Adult Services, Employment and Training Administration, U.S Department of Labor, 200 Constitution Avenue N.W. Washington DC 202101. Allegations determined to be substantial and credible will be investigated and addressed.

Complaints alleging a violation of the Nondiscrimination Requirements of Title VI of Civil Rights Acts of 1964, Section 504 of the Rehabilitation Act of 1974, Section 188 of the WIOA Act of 2014, may be directed to the Director of Civil Rights Center, U.S Department of Labor, Rom N-4123, 200 Constitution Avenue N.W. Washington, 580 D.C. 20210.

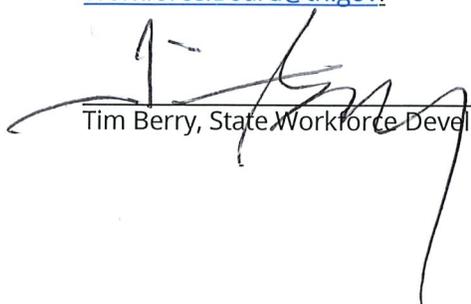
Complaints alleging violation of WIOA Section 188 may be filed initially at the grantee level. Non-Discrimination and Equal Opportunity policy provides uniform procedures for filing complaints alleging violations of the non-discrimination and equal opportunity provisions of WIOA of 2014.

**References:**

20 CFR 641.580, 641.910; 29 CFR 37.70 to 37.80; Civil Rights Acts of 1964, Title VI; Older American Act Amendments of 2006; Rehabilitation Act of 1974, Section 504; Workforce Innovation and Opportunity Act, Section 188

**Contact:**

For any questions related to this policy, please contact the Program Integrity Unit at [Workforce.Board@tn.gov](mailto:Workforce.Board@tn.gov).



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Tim Berry, State Workforce Development Board Chair